

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:09-CR-125-1BR
No. 5:14-CV-805-BR

RODERICK ARNEZ WHITAKER,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

ORDER

This matter is before the court on the government's response to petitioner's 28 U.S.C. § 2255 motion. (DE # 55.) The government concedes that petitioner has a meritorious claim of actual innocence as to his conviction for being a felon in possession of a firearm ("Count One"). Petitioner also has a conviction for conspiracy to distribute and possess with the intent to distribute more than 50 grams of cocaine base ("Count Three"). The effect, if any, that the vacation of petitioner's conviction and sentence on Count One has on his sentence on Count Three is not clear. Accordingly, the Office of the Federal Public Defender is APPOINTED to represent petitioner with regard to this issue and the appropriate remedy. Petitioner's counsel shall file any brief within 30 days of the date of this order. The government shall file any response within 21 days thereof.

This 3 February 2015.



W. Earl Britt
Senior U.S. District Judge